

**ARKANSAS COURT OF APPEALS**

DIVISION II  
No. CACR08-1338

CHASE A. PRATER

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

**Opinion Delivered** May 27, 2009

APPEAL FROM THE PULASKI  
COUNTY CIRCUIT COURT,  
[NO. CR-07-3758]

HONORABLE JOHN W.  
LANGSTON, JUDGE

AFFIRMED

**WAYMOND M. BROWN, Judge**

Appellant Chase Prater was convicted by a Pulaski County jury of rape, kidnapping, second-degree sexual assault, and criminal impersonation. Appellant received consecutive terms of imprisonment totaling twenty-eight years. Appellant's sole point on appeal is that the trial court erred in denying his motions for directed verdict on the offense of kidnapping because there was insufficient evidence that he restrained his victim with an amount of force that exceeded the amount of force incidental to the commission of the rape.<sup>1</sup> We affirm.

The State presented evidence that appellant impersonated a police officer and threatened Allison Kelley and Autumn Roberson with jail if they did not leave Mid-Town Billiards with him. Allison arrived home safely; however, appellant raped Autumn and

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<sup>1</sup>Appellant does not appeal his convictions for rape, second-degree sexual assault, or criminal impersonation.

committed other sexually abusive acts against her before taking her to her parents' home in Conway.

At the conclusion of the State's case, appellant made motions for directed verdict as to all of his charges. In regard to the kidnapping charge, appellant stated:

Your honor, with regard to Count II, defense is going to move for a directed verdict. State hasn't shown that Chase Prater did restrain, without consent, Autumn Roberson as to interfere substantially with her liberty for the purpose of inflicting physical injury upon her or engaging in sexual intercourse, deviate sexual activity and sexual contact with her.

And we'd also make a directed verdict on the basis that the [primary] defense has been met in this case with regard to Y felony, that she was released in a safe place through the testimony of the victim herself.

The motions were denied; however, the court did reduce appellant's kidnapping charge to a Class B felony.

Appellant testified on his own behalf, denying the allegations against him. He renewed his directed verdict motions at the conclusion of the evidence. The motions were denied and the jury found appellant guilty of all charges. Appellant received an aggregate sentence of twenty-eight years. He now appeals his kidnapping conviction, arguing that the trial court erred in denying his directed verdict motions. According to appellant, his directed verdict motions should have been granted because the State failed to introduce evidence that he restrained the victim with an amount of force that exceeded the amount of force incidental to the commission of rape.

We treat a motion for directed verdict as a challenge to the sufficiency of the evidence. *Coggin v. State*, 356 Ark. 424, 156 S.W.3d 712 (2004). When reviewing a challenge to the

sufficiency of the evidence, we view the evidence in the light most favorable to the State and consider only the evidence that supports the verdict. *Terry v. State*, 371 Ark. 50, 263 S.W.3d 528 (2007). We affirm a judgment of conviction if substantial evidence exists to support it. *Gaye v. State*, 368 Ark. 39, 243 S.W.3d 275 (2006). Substantial evidence is evidence that is forceful enough to compel a conclusion one way or the other beyond speculation or conjecture. *Cluck v. State*, 365 Ark. 166, 226 S.W.3d 780 (2006).

We hold that the argument appellant now makes is not preserved for appeal. Appellant did not make this same argument below, therefore he is barred from making it on appeal. See *Marbley v. State*, 81 Ark. App. 165, 100 S.W.3d 48 (2003). It is so well-settled as to be axiomatic that a party cannot change the grounds for a directed verdict on appeal, but is bound by the scope and nature of the argument presented at trial. *Avery v. State*, 93 Ark. App. 112, 217 S.W.3d 162 (2005). Because appellant's argument was not made to the trial court in his motions for directed verdict, he cannot now make this argument on appeal, and his kidnapping conviction is affirmed.

Affirmed.

BAKER, J., agrees.

HART, J., concurs without opinion.